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November 17, 2011

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FACSIMILE COVER PAGE

SENT TO:

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SENT BY:

Joseph J. Brennan

RE:

Case Farms Processing, Inc. - Cases: 08-CA-039152, et al.

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TOTAL PAGES: (INCLUDING THIS COVER PAGE)

SPECIAL INSTRUCTIONS:

Please disregard the previous fax sent. Attached hereto is the signed letter with exhibit. Thank you

SECRETARY:

ANS

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No. 6418 P. 2/5

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VIA FACSIMILE ONLY 202/273-4270

Farah Z. Qureshi, Associate Executive Secretary National Labor Relations Board Office of the Executive Secretary 1099 14th St., NW, Ste. 11600 Washington, DC 20570

Re: Case Farms Processing, Inc.

Cases: 08-CA-039152, et al.

Dear Ms. Qureshi:

I am in receipt of your November 17, 2011 correspondence stating that the Board will not transmit Respondent Case Farms Processing, Inc's Reply Brief as it was submitted two days after the due date. For the reasons stated below, Respondent requests that the Board accept its brief as timely filed.

When determining the due date for the Reply Brief, which is limited to a period of 14 days pursuant to 29 CFR § 102.41 (h), Respondent began its calculation from the date it received service notifying it of the filing. Respondent received notice via email on November 2, 2011 – 5 days after the answering brief was filed. Attached as Exhibit A is the service sent via email by Region 8 Attorney and brief signatory, Melanie Bordelois, on November 2, 2011. Respondent's Reply Brief was filed 14 days later – on November 16, 2011.

As stated in Ms. Bordelois' e-mail, the NLRB's failure of service was inadvertent. However, prior to receipt of this service, Respondent was unaware that a reply brief was warranted. Accordingly, enforcing a November 14 due date prejudices Respondent because it holds it to a response time of less than the 14 day period provided in the Board's rules and regulations. Accordingly, Respondent requests that the Board accept its brief as timely filed. Region 8, via Attorney Melanie Bordelois, has indicated that it will not and does not oppose Respondent's request for the Board to accept its brief as timely filed.

Notwithstanding the foregoing, Section 102,46(h) of the Boards Rules and Regulations states that while further briefing is not generally accepted, additional briefing will be accepted by "special leave of the Board." Based on the foregoing circumstances, if the Board will not accept Respondents Reply Brief as timely, Respondent will request special leave from the Board to file its Reply Brief. Region 8, via Attorney Melanie Bordelois, has also indicated that it will not and

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Farah Z. Qureshi, Associate Executive Secretary November 17, 2011 Page 2

does not oppose Respondent's request for leave to file its brief.

Thank you for your consideration in this matter.

Very truly yours,

pseph Jurennan

For FISHER & PHILLIPS LLP

JJB: mm

Enclosure

cc: Thomas D. Rooney, Esq.

David P. Hiller, Esq.

Mark Rock (via facsimile w/enclosures)

Lawrence Plumb (via facsimile w/enclosures)

NLRB Region 8 (via facsimile w/enclosures)

Brennan, Joseph

From:

Rooney, Thomas

Sent:

Thursday, November 17, 2011 11:58 AM

To:

Brennan, Joseph

Subject: Attachments: FW: Case Farms, 8-CA-39152 et al Answering_Brief_to_Exceptions[1].pdf

Thomas D. Rooney

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From: Bordelois, Melanie R. [mailto:Melanie.Bordelois@nlrb.gov]

Sent: Wednesday, November 02, 2011 9:28 AM

To: Rooney, Thomas

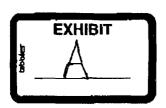
Subject: Case Farms, 8-CA-39152 et al

Tom,

Well, now you aren't the only party that forgot to serve a filing. I realized this morning that I neglected to send you a copy of our response to Respondent's exceptions to the ALJ's decision. It is attached.

Melanie

Melanie R. Bordelois Field Attorney National Labor Relations Board - Region 8 1240 East Ninth Street, Room 1695 Cleveland, OH 44199-2086 (216) 522-3740 (216) 522-2418 fax



From: 202 273 4270

Page: 1/2

Date: 11/17/2011 11.36.13 AM

NATIONAL LABOR RELATIONS BOARD



OFFICE OF THE EXECUTIVE SECRETARY

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RE: CASE FARMS PROCESSING, INC. CASE 08-CA-039152, ET AL.

ALL CONFIRMATIONS:YES

NOTES/COMMENTS:

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